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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,255	05/18/2005	Tsuyoshi Sadakiyo	SADAKIYO1	5989

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EXAMINER	
TRAN LIEN, THUY	

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
06/27/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/535,255	SADAKIYO ET AL.	
	Examiner	Art Unit	
	Lien T. Tran	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 May 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *12/13/05, 12/1/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1: The step of " crushing the rice grains" is unclear because it is not known if the grains are crushed while they are in the water, or after the water is drained or at some other time. The same problem is noted with the " penetrating step"; is the trehalose or maltitol added to the soaking water or what?. How is the penetrating done? It is not clear what processing is encompassed by the term " penetrating". Line 7, the phrase " the resulting rice grains" does not have antecedent basis.

In claim 3, the terms " roughly crushing" is indefinite because it is not known what would be considered as " roughly crushing". Also, the recitation of " said unpolished rice grains and said polished rice grains" does not have antecedent basis because claim 1 has not set forth that the rice grains are unpolished or polished.

In claim 6, the term " the moisture content" does not have antecedent basis.

In claim 10, the term " premixed flour" is indefinite because it is not known if the rice flour is mixed with some additive or the rice flour is mixed with other flour or what.

In claim 12, the terms " roughly crushing" has the same problem as claim 3.

Claim 15 has the same problem as claim 6.

Claim 18 is vague and indefinite because it is not clear what is intended. The claim recites " rice flour obtainable by the process of claim 17"; but, claim 17 does not recite a process for obtaining rice flour.

Claim 19 has the same problem as claim 10.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morohashi et al. (Jp 2000-175636) in view of Nakamura et al.

Morohashi et al disclose a process for producing rice flour to be used in processed food. The process comprises the steps of immersing rice in solution containing organic acids, dehydrating the immersed rice, milling and drying the rice to obtain the rice flour. The rice used includes unpolished rice and polished rice.

Morohashi et al do not disclose the steps of crushing the rice grains, penetrating with trehalose or maltitol and the amount used, the moisture content of the rice, sieving

to give the particle size as claimed, bakery products or noodles containing the rice flour and a premixed flour comprising the rice flour.

Nakamura et al teach soaking rice grains with many additives including trehalose. (see column 4 lines 9-45)

Morohashi et al teach soaking with additives such as organic acids. It would have been obvious to one skilled in the art to add trehalose as additional additves because Nakamura et al teach such additive is known to be added to rice during soaking. One would have been motivated to add trehalose when desiring a sweet taste because it is a saccharide. It would have been obvious to one skilled in the art to crush the grains to open the surface which will facilitate the absorbance of the additives into the rice grains. Such step is logical reasoning which would have been within the determination of one skilled in the art. It would have been obvious to use powder or solution depending on availability and convenience. It would have been obvious to vary the amount depending on the properties wanted. For example, it would have been obvious to use a large a amount if a very sweet taste is desired. It would have been obvious to sieve the flour to any desired particle size depending on the type of flour wanted and the intended use. It would have been obvious to use the rice flour in bakery products or noodles because many types of baked products and noodles are made of rice flour solely or partially. It would have been obvious to make a premixed for ease of consumption. Such concept is well known in the art; for instance, there are many premixed flours for cakes, cookies, pancake, bread etc.. It would have been obvious to

dry the rice to a moisture content that will give shelf stability. Such factor can readily be determined by one skilled in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 22, 2008

/Lien T Tran/

Primary Examiner, Art Unit 1794